IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5928 OF 2005

Vitthal Sakru Ide. ... Applicant.

Versus.

The State of Maharashtra. ... Respondents.

Shri Raj J.Khude for the Applicant.

Shri K.V.Saste, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 28th Sept., 2005.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned A.P.P. for the State. The offence alleged against the Applicant and the co-accused is under sections 302, 201 read with section 34 of the Indian Penal Code.

2. The material against the Applicant is in the form of statement made by the Accused No.1 implicating the Applicant and the statement of one Kisan Sakru Vare. The recovery of the skull of the deceased is at the instance of the co-accused.

3. The learned Advocate for the Applicant submitted that as there is no direct evidence against the Applicant, after completion of investigation the Applicant is entitled to be enlarged on bail. The learned A.P.P. has brought to my notice the material

collected during investigation against the Applicant.

4. I have considered the submissions. Reliance is placed on the statement of Kisan Sakru Vare who has allegedly supplied liquor to the accused persons. His statement shows that he did not knew the Applicant personally. There is no test identification parade held. There is no recovery made at the instance of the Applicant and the recovery skull is at the instance of the co-accused. Even the recovery of knife is at the instance of the other co-accused. The report of the Dogs Squad cannot be said to be a material against the Applicant. Considering these state of affairs and in absence of criminal antecedents, the Applicant is entitled to be enlarged on bail subject to stringent conditions.

5. Hence the following order is passed:

(i) The Applicant shall be enlarged on bail in connection with C.R.No.210 of 2005 registered at Ghoti Police Station, Dist.Nashik, subject to furnishing a personal bond of Rs.10,000/- with one or two local sureties.

(ii) The bail is granted subject to condition that the Applicant will report to the

concerned Police Station once in a fortnight till conclusion of the trial.

(iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) Application is disposed of in above terms.

Judge.